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U.S. Application No. 10/017,111 Examiner ALVAREZ, Art Unit 3622  
Notice of Appeal and Pre-Appeal Brief Request for Review in Response to December 19, 2005 Final Office Action

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**In re application of:**MATZ, *et al.*

Group Art Unit: 3622

Application No. 10/017,111

Examiner: ALVAREZ, Raquel

Filed: December 14, 2001 Attorney Docket: BS01372

Title: "Method and System for Targeted Incentives"

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**PRE- APPEAL BRIEF REQUEST FOR REVIEW**

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The Assignee requests review of the final rejection in the above-identified patent application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated below.

The Assignee respectfully submits that the pending claims distinguish over the cited document to *Knudson*. The Office has finally rejected claims 1-4, 6-15, and 18-38 under 35 U.S.C. § 103 (a) as being obvious over WO 99/45702 to Knudsen. As the Assignee shows, however, the cited document to *Knudson*, even when coupled with Examiner Alvarez's assertions of "Official Notice," does not teach or suggest all the features of the independent claims. One of ordinary skill in the art, then, would not think the claims are obvious. The Assignee thus respectfully requests that the panel remove the § 103 (a) rejection.

Independent claims 1, 15, and 38 are not obvious in view of *Knudson*. All the independent claims recite features for "*receiving the user's credit card purchase records describing purchases from retail stores.*" Moreover, all the independent claims also recite

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features for *"classifying the user in a user classification when the user's television viewing selections relate to the user's purchases from the retail stores."* A "clean" version of independent claim 1 is reproduced below, and independent claims 15 and 38 recite similar features.

1. A method for marketing, comprising:
  - defining a match between a user classification and an incentive;
  - receiving from a set-top box user data associated with a user's television viewing selections;
  - receiving the user's credit card purchase records describing purchases from retail stores;
  - classifying the user in a user classification when the user's television viewing selections relate to the user's purchases from the retail stores; and
  - transmitting the incentive to the user if a match is defined between the user classification and the incentive.

The *Knudson* document completely fails to teach or suggest such features. As the Assignee has previously agreed, the Office is correct in recognizing that *Knudsen* receives "information regarding programs that have been purchased and viewed." *Knudsen* at page 10, lines 8-11. *Knudsen* also describes an "order processing and billing system" for pay-per-view programming. *Knudsen* at page 9, lines 5-8. *Knudsen*, however, fails to realize that users can be classified according to *"purchases from the retail stores."* The independent claims all recite features for *"receiving the user's credit card purchase records describing purchases from retail stores"* and for *"classifying the user in a user classification when the user's television viewing selections relate to the user's purchases from the retail stores."* *Knudson* is completely silent to such features.

The Assignee must strongly, yet respectfully, disagree with the position of the Examiner. Examiner Alvarez, in the July 12, 2005 office action, asserts that such claimed features are obvious in view of *Knudson* and in view of "Official Notice." The Assignee and Examiner Alvarez both agree that *Knudson* teaches targeting incentives to viewers based on pay-per-view

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purchases. *See, e.g., Knudsen* at page 10, lines 8-11. Examiner Alvarez, however, takes "Official Notice" that credit cards are a well known method of making purchases. *See* Examiner Alvarez, July 12, 2005 office action, at page 7, lines 8-11. Examiner Alvarez also takes "Official Notice" that monitoring purchases at retail establishments is a well known method of tracking customer purchases. *See id.* at lines 11-13. Examiner Alvarez then asserts that it would have been obvious to modify *Knudson* to include credit card purchases at made at retail establishments. *See id.* at lines 13-18.

The Assignee strongly and, yet, respectfully, disagrees. Whether or not credit card purchases are well-known, and whether or not monitoring purchases at retail establishments is well known, Examiner Alvarez's conclusion is faulty. Examiner Alvarez must cite documents in an analogous field that relate credit card purchase records to television viewing selections. Or, using the pending claim language, Examiner Alvarez must find analogous documents that "*receiv[e] the user's credit card purchase records describing purchases from retail stores*" and "*[classify] the user in a user classification when the user's television viewing selections relate to the user's purchases from the retail stores.*" The *Knudson* document targets incentives to viewers based on pay-per-view purchases. *Knudson*, however, makes no teaching or suggestion that relates "*the user's television viewing selections ... to the user's purchases from the retail stores,*" as the independent claims recite. So, whether or not Examiner Alvarez's assertions of "Official Notice" are accurate, the teachings of *Knudson* do not support her obviousness conclusion. *Knudson* is completely silent to any relation between television viewing selections and purchases from retail stores, so one of ordinary skill in the art would not think the claims are obvious. Examiner Alvarez's assertions of "Official Notice" do not logically support the § 103 (a) rejection.

The final rejection, then, is improper. The teachings of *Knudsen*, even when coupled with Examiner Alvarez's assertions of "Official Notice," do not teach or suggest "*receiving the user's credit card purchase records describing purchases from retail stores*" and "*classifying the user in a user classification when the user's television viewing selections relate to the user's purchases from the retail stores.*" One of ordinary skill in the art, then, would not think that the

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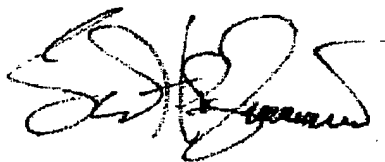
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claims are obvious in view of the cited documents. The Assignee thus respectfully requests that the panel remove the § 103 (a) rejection.

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 387-6907 or [scott@wzpatents.com](mailto:scott@wzpatents.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott P. Zimmerman', with a stylized flourish at the end.

Scott P. Zimmerman  
Attorney for the Assignee  
Reg. No. 41,390